



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,607	03/06/2001	Robert Olan Keith JR.	ABREAU-00104	2648

28960 7590 08/03/2005

HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

EXAMINER

NGUYEN, CAM LINH T

ART UNIT	PAPER NUMBER
----------	--------------

2161

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,607

Applicant(s)

KEITH, ROBERT OLAN

Examiner

CamLinh Nguyen

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 2, 4- 13, 15 - 24, 26 - 26, 38 - 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 2, 4- 13, 15 - 24, 26 - 26, 38 - 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/27/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office Action is response to the RCE filed on 6/15/2005.
2. Applicant's amendments to claims 1 – 45 are acknowledged. Consequently, claims 1, 4 – 6, 12, 15 – 17, 23, 26 – 28, 35, 38 – 40, and 45 have been amended. Claims 3, 14, 25, 37 have been cancelled. Claims 1 – 2, 4- 13, 15 – 24, 26 – 26, 38 - 45 are currently pending.
3. An IDS filed on 6/26/2005 is received and entered.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Art Unit: 2161

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 – 2, 4- 13, 15 – 24, 26 – 26, 38 - 45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4 – 15, 17 – 25, 28 – 39, 41 – 49, 52 – 63, 65 – 73, 76 – 87, 89 - 96 of copending Application No. 09/801,138; claims 1 - 49 of copending Application No. 09/801,072; claims 1 – 4, 6 – 15, 18 – 27, 30 – 39, 42 – 51 of copending Application No. 09/801,076; claims 1 – 37 of copending Application No. 09/800,592; claims 1, 3 – 12, 14 – 23, 25 – 34, 36 – 42 of copending Application No. 09/799,032; claims 1 – 7, 9 – 15, 17 – 23, 25 – 29, 31 – 32 of copending Application No. 09/800, 566.

Claims Comparison Table

'607	'076	'138	'072
Claims			
1	1	1	1
'607	'032	'592	'566
Claims			
1	1	1	1

Most limitations in instant application can be found on copending ' 056, '592, '032, '072, '138, '076.

Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been prima facie obvious to one with ordinary skill in the art at the

Art Unit: 2161

time the invention was made to broaden the invention because this provides a wider application of the invention with no additional cost in development.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 – 2, 4- 13, 15 – 24, 26 – 26, 38 - 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witek et al (U.S. 6,253,188) in view of David V. James (U.S. 6,133,938) and Chipman et al (U.S. 6,292,894 B1), further in view of Botto et al (U.S. 5,604,772).

♦ As per claims 1, 12, 23, 35, 45

Witek teaches a method of accessing information in a searchable database comprising:

- “The searchable database is formatted in a directory tree structure” See Fig. 4, col. 11, lines 20 – 25, col. 18, lines 1 – 32.
- “The directory tree structure includes nodes ... branches” See fig. 4. Each category corresponds to a node. All nodes are linked together.
- “ Wherein each specific node provides a corresponding set of parameters by which each related item of data corresponding to the specific node is defined by setting each

parameter with a corresponding value associated with the data item, thereby forming a set parameter” see Fig. 3 - 4, col. 15, lines 25 – 26, col. 51, lines 1 – 11. There are pluralities of nodes in Fig. 4. Node 60, for example, includes a corresponding parameter.

- “ Accessing a particular node within the directory tree structure” See Fig. 8 – 10. A user can specify the resource by selecting a category and set up one or more set parameters as shown in Fig. 10.
- “Utilizing a selective one or more search methodologies including keyword search, hierarchical search, and dichotomous key search, wherein accessing each of the nodes within the directory tree structure each of the search methodologies including keyword search, hierarchical search, and dichotomous key search, are available” See Fig. 10, element 144 – 146 of Witek. In fig. 10, Witek also gives the users the options of answer questions by checking the boxes. Witek also disclose at least one of the search method such as category search.
- “ Setting one or more search parameters corresponding to the set of parameters of the particular node” See Fig. 10, col. 30, lines 47 – 49.
- “ Performing a parametric search using the one or more set search parameters ... generating one or more matching discrete data items” See Fig. 10, elements 154, 158, 160, 142, col. 30, lines 10 – 29. “One or more matching items” corresponds to the results that sent to user (Fig. 7, element 126 – 128).

Witek, however, does not teach that the parametric search can be applied from the beginning node (root node). However, searching throughout a hierarchical tree using parametric is a well-known method. James, for example, discloses a method for searching a hierarchical database

Art Unit: 2161

using the parametric search (col. 11, lines 34 – 40, James). In addition, Chipman also discloses a method for searching a hierarchical database (col. 6, lines 56 – 57, Chipman) using the parametric search (col. 7, lines 57 – col. 8, lines 20, Chipman).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of James or Chipman into the invention of Witek because the combination would provide more accurate result from complex search strategy.

The Witek reference fails to disclose the dichotomous key search. However, this method search is a well known in the art. Botto provides an example of it.

Botto teaches that a dichotomous key search is used to search for data in the database 112, wherein the database is a hierarchical database (See Fig. 5, col. 5, lines 26 – 29).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Botto into the combination taught above because the combination would reduce the memory access when using binary search, and providing user more search methodologies.

◆ As per claims 2, 13, 24, 36, the combination of Witek and James/Chipman and Botto disclose:

- “The parameters are customizable and specific to the particular node” See Fig. 10, elements 154, 158, 160, 142, col. 30, lines 10 – 29 of Witek.

◆ As per claims 4, 15, 26, 38, the combination of Witek and James/Chipman disclose:

- “The search criteria is one or more keywords input by a user” See Fig. 10, element 148, col. 29, lines 28 – 34 of Witek.

◆ As per claims 5, 16, 27, 39, the combination of Witek and James/Chipman and Botto disclose:

Art Unit: 2161

- “The utilized search methodology is the hierarchical search, the search criteria is selected one of a list of one or more directory items” A “hierarchical search” corresponds to “category search” because the categories include subcategories that organized in a hierarchical order. See Fig. 4, 6 – 7, col. 31, lines 4 – 11 of Witek.
- ◆ As per claims 6, 17, 28, 40, the combination of Witek and James/Chipman and Botto disclose:
 - “The utilized search methodology is the dichotomous key search, the search criteria is a selected one of two binary items” See Fig. 3, element 70, col. 16, lines 27 – 50, Fig. 10, element 144 – 146. As defined in the Specification a “dichotomous key search” is used to instruct users given in an answer or question dialog, often yes or no answer (Specification, page 18, lines 6 – 8). In fig. 10, Witek also gives the users the options of answer questions by checking the boxes. Therefore, this search option is corresponding to the “dichotomous key search”.
- ◆ As per claims 7, 18, 29, 41, the combination of Witek and James/Chipman and Botto disclose:
 - “The searchable database is distributed into more than one physical location” See Fig. 1, element 20, col. 9, lines 53 – col. 10, lines 5, col. 25, lines 37 – 44 of Witek.
- ◆ As per claims 8 – 9, 19 - 20, 30 – 32, 42, the combination of Witek and James/Chipman and Botto disclose:
 - “ Performing a parametric search are performed by a server” See Fig. 1, 5A, col. 25, lines 13 – 33 of Witek.
 - “ Establishing an Internet connection with the server to utilize the search methodologies” See Fig. 5a, element 14, 24, col. 21, lines 15 – 20 of Witek.

Art Unit: 2161

♦ As per claims 10 – 11, 21 – 22, 33 – 34, 43 – 44, the combination of Witek and

James/Chipman and Botto disclose:

- “Maintaining the node by appropriately adding and deleting data to and from the node”

See col. 50, lines 4 – 15 of Witek.

- “ The node owner maintains ownership of the corresponding node” See Fig. 14, col. 50, lines 4 – 15 of Witek. “ A node owner” corresponds to the system administrator.

Response to Arguments

6. Applicant's arguments filed 6/15/05 have been fully considered but they are not persuasive in part.

A) Applicant argues that the combination of Witek/James/Chipman fail to disclose a dichotomous key search. The arguments have been considered but are moot in view of the new ground(s) of rejection.

B) Applicant argues that the Witek does not teach performing a search in which for any given searching step, at any location within the database, four different search methodologies are available to be used to perform the search. The Examiner respectfully disagrees.

Applicant only claims three search methodologies in the invention and setting parameter in a particular node. Therefore, the parametric does not necessary available at any node of the directory tree structure. Further Applicant also does not clearly claiming that “for any given searching step, at any location within the database, **four different search methodologies** are available to be used to perform the search” in at least in independent claim 1.

Art Unit: 2161

Therefore, if the Witek discloses one of the methods and the method is available for the search process, then the Witek still can apply to the invention.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272 - 4024. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272 - 4023. The fax phone number for the organization where this application or proceeding is assigned is 571 - 273 - 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen, Cam-Linh

Art Unit 2161

LN


MOHAMMAD ALI
PRIMARY EXAMINER